

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DANNY RAY SALZER,

Plaintiff

Case No. 2:19-cv-01615-GMN-EJY

ORDER

v.

CAVASOS et al.,

Defendants

**I. DISCUSSION**

This action began with a *pro se* civil rights complaint filed by an inmate pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). On August 24, 2020, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff to file an amended complaint within 30 days. (ECF No. 6 at 8). The 30-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,

1 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
2 local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey  
4 a court order, or failure to comply with local rules, the court must consider several factors:  
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously  
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
18 the court's order will result in dismissal satisfies the "consideration of alternatives"  
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
20 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint within 30  
21 days expressly stated: "It is further ordered that, if Plaintiff fails to file an amended  
22 complaint curing the deficiencies of his claims against the deputy U.S. Marshals, this  
23 action will be dismissed without prejudice." (ECF No. 6 at 8). Thus, Plaintiff had adequate  
24 warning that dismissal would result from his noncompliance with the Court's order to file  
25 an amended complaint within 30 days.

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## II. CONCLUSION

It is therefore ordered that this action is dismissed without prejudice based on Plaintiff's failure to file an amended complaint in compliance with this Court's August 24, 2020, order.

It is further ordered that the Clerk of Court shall close the case and enter judgment accordingly.

DATED THIS 30 day of September 2020.

Gloria M. Navarro, Judge  
United States District Court